

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. ER97-3026-000]

Boston Edison Company; Notice of
Filing

June 26, 1997.

Takes notice that on May 20, 1997, Boston Edison Company (Boston Edison) tendered for filing a Standstill Agreement between itself and The Boylston Municipal Light Department, City of Holyoke Gas & Electric Department, Hudson Light and Power Department, Littleton Electric Light & Water Departments, Marblehead Municipal Light Department, Middleborough Gas and Electric Department, North Attleborough Electric Department, Peabody Municipal Light Plant, Shrewsbury's Electric Light Plant, Templeton Municipal Light Plant, Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, and Westfield Gas & Electric Light Department (Municipals). The Standstill Agreement extends through July 31, 1997 the time in which the Municipals may institute a legal challenge to the 1995 true-up bill under their respective contracts to purchase power from Boston Edison's Pilgrim Nuclear Station.

Boston Edison requests waiver of the Commission's notice requirement to allow the Standstill Agreement to become effective May 21, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 8, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket Nos. ER97-2869-000 and ER97-2872-000]

Central Hudson Enterprise
Corporation; and Central Hudson Gas
& Electric Corporation; Order
Conditionally Accepting For Filing
Proposed Market-Based Rates, And
Announcing Policy With Respect To
New Power Sales That Do Not Reflect
Unbundling of Transmission and
Ancillary Services

Issued June 26, 1997.

In this order, we conditionally accept for filing, without hearing or suspension, the proposed market-based power sales rates filed by Central Hudson Gas & Electric Corporation (Central Hudson). In addition, we accept for filing, without conditions, hearing or suspension, the proposed market-based power sales rates filed Central Hudson's power marketer affiliate, Central Hudson Enterprise Corporation (Enterprise).

We also take this opportunity to remind public utilities that all new power sales (*i.e.*, those made on or after July 9, 1996) must separately unbundle transmission and ancillary services. We announce that any power sales filing made after the date this order is published in the Federal Register that does not provide for the unbundling of transmission and ancillary services will be rejected, regardless of whether the sales agreement or tariff is market-based or cost-based.

Background

Central Hudson is a public utility in upstate New York which owns and operates facilities for the generation, transmission and distribution of electric power. Enterprise is a power marketer which is a wholly-owned subsidiary of Central Hudson. Enterprise does not own or operate any electric generation, transmission or distribution facilities and currently has no retail or wholesale electric service customers.

On May 6, 1997, Enterprise and Central Hudson filed separate applications in Docket Nos. ER97-2869-000 and ER97-2872-000 for Commission authorization to engage in the wholesale sale of electric energy and capacity at market-based rates. Among other things, Enterprise and Central Hudson request the same waivers and authorizations afforded to other power marketers and franchised utilities with market-based rate authorization.

Notice of Enterprise's and Central Hudson's filings were published in the **Federal Register**, 62 FR 29,139 (May 29, 1997), with comments, protests and interventions due on or before June 4, 1997. Electric Clearinghouse, Inc. (Electric Clearinghouse) filed a timely motion to intervene in each of the proceedings, raising no substantive issues. The Public Service Commission of the State of New York (New York Commission) filed a notice of intervention in each of the proceedings, raising no substantive issues.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214(c), the timely, unopposed motions to intervene of Electric Clearinghouse and the notices of intervention of the New York Commission serve to make them parties to the proceedings in Docket Nos. ER97-2869-000 and ER97-2872-000.

Market-Based Rates

The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, market power in generation and transmission and cannot erect other barriers to entry. In order to demonstrate the absence or mitigation of market power, a transmission-owning public utility must have on file with the Commission an open access transmission tariff for the provision of comparable services. The Commission also considers whether there is evidence of affiliate abuse or reciprocal dealing.¹

As we explain below, we find that, with Central Hudson's filing of an open access *pro forma* compliance transmission tariff,² Enterprise's market-based rate application and Central Hudson's market-based rate application, as modified, meet these standards. Accordingly, we will accept the proposed market-based rates for filing, to become effective on the date of this order, subject to the condition that Central Hudson revise its power sales tariff as discussed below.

¹ *E.g.*, Progress Power Marketing, Inc., 76 FERC ¶ 61,155 at 61,919 (1996); Northwest Power Marketing Company, L.L.C., 75 FERC ¶ 61,281 at 61,889 (1996); *accord* Heartland Energy Services, Inc., *et al.*, 68 FERC ¶ 61,223 at 62,060-63 (1994) (*Heartland*).

² See Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 FR 21,540 (1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 FR 12,274 (1997), FERC Stats. & Regs. ¶ 31,048, *reh'g pending* (Open Access Rule).